

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 19-0524V

UNPUBLISHED

DAYNA CLARK,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: August 10, 2020

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA)

*Gerald S. Sack, Law Offices of Gerald S. Sack, LLC, West Hartford, CT, for petitioner.*

*Althea Walker Davis, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On April 10, 2019, Dayna Clark filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a left Shoulder Injury Related to Vaccine Administration (SIRVA) as a result of an influenza (“flu”) vaccination administered on October 10, 2017. Second Amended Petition at Preamble (ECF 27). Petitioner further alleges that her symptoms “persisted for more than six months.” Petition at 4. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 3, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for a left SIRVA. ECF 34. On August 10, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$55,000.00 for pain and suffering. Proffer at 1. In the Proffer, Respondent represented that Petitioner

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

agrees with the proffered award. *Id.* at 2. Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$55,000.00 in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS

DAYNA CLARK,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 19-524V
	)	Chief Special Master
	)	Brian H. Corcoran
AND HUMAN SERVICES,	)	SPU
	)	
Respondent.	)	

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

On April 10, 2019, Dayna Clark (“petitioner”) filed a petition for compensation (“Petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), as amended. Respondent conceded petitioner’s entitlement to compensation in his Rule 4(c) Report filed on August 3, 2020. Based on Respondent’s Rule 4(c) Report, on August 3, 2020, Chief Special Master Corcoran found petitioner entitled to compensation for her left shoulder SIRVA injury.

**I. Items of Compensation**

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$55,000.00 for pain and suffering. This represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**II. Form of the Award**

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of **\$55,000.00**, in the form of a check made payable to petitioner. <sup>1</sup>

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<sup>1</sup> Should petitioner die prior to the entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

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DATED: August 10, 2020